

**SUPREME COURT MINUTES
FRIDAY, DECEMBER 16, 2005
SAN FRANCISCO, CALIFORNIA**

S139175 H025876 Sixth Appellate District	HARROD, MARRIAGE OF Petition ordered withdrawn
S057063	PEOPLE v. ELLIOT (MICHAEL) Time extended to consider modification or rehearing to February 24, 2006.
S127505 B161356 Second Appellate District, Division Eight	PEOPLE v. PARTIDA Time extended to consider modification or rehearing to February 17, 2006.
S138065 E035971 Fourth Appellate District, Division Two	PEOPLE v. CLAVANO Time extended to grant or deny review to January 13, 2006.
S138085 E036209 Fourth Appellate District, Division Two	PEOPLE v. LULE Time extended to grant or deny review to January 13, 2006.
S138170 E035692 Fourth Appellate District, Division Two	PEOPLE v. GONZALEZ Time extended to grant or deny review to January 24, 2006.
S064337	PEOPLE v. ROGERS (RAMON) Extension of time granted to March 13, 2006 to file respondent's brief. After that date, only two further extensions totaling about 80 additional days will be granted. Extension is granted based upon Deputy Attorney General Maxine P. Cutler's representation that she anticipates filing that brief by May 31, 2006.
S064858	PEOPLE v. SCOTT (ROYCE LYN)

Extension of time granted

to February 14, 2006 to file appellant's opening brief. After that date, only four further extensions totaling about 240 additional days will be granted. Extension is granted based upon Deputy State Public Defender Susan Ten Kwan's representation that she anticipates filing that brief by October 2006.

S066527

PEOPLE v. LINDBERG (GUNNER J.)

Extension of time granted

to February 17, 2006 to file appellant's reply brief.

S067353

PEOPLE v. GONZALES (IVAN)

Extension of time granted

to February 21, 2006 to file appellant's opening brief. After that date, only five further extensions totaling about 300 additional days will be granted. Extension is granted based upon Deputy State Public Defender Craig Buckser's representation that he anticipates filing that brief by December 2006.

S067519

PEOPLE v. THOMAS (KEITH)

Extension of time granted

to February 17, 2006 to file appellant's opening brief.

S093235

PEOPLE v. JOHNSON (JERROLD)

Extension of time granted

to February 17, 2006 to file appellant's opening brief.

S126085

DYKES (ERNEST) ON H.C.

Extension of time granted

to January 11, 2006 to file the reply to the informal response to the petition for writ of habeas corpus. After that date, only one further extension totaling about 30 additional days will be granted. Extension is granted based upon counsel Steven S. Lubliner's representation that he anticipates filing that document by February 10, 2006.

S130342

HALVORSEN (ARTHUR) ON H.C.

Extension of time granted

to December 21, 2005 to file the reply to the informal response to the petition for writ of habeas corpus. Extension is granted based upon counsel Gary D. Sowards's representation that he anticipates filing that document by December 21, 2005. After that date, no further extension will be granted.

S132972

C044653 Third Appellate District

VINEYARD AREA CITIZENS FOR RESPONSIBLE GROW

Extension of time granted

On joint application of counsel for all parties, and good cause appearing, it is ordered that the time to serve and file each parties' answers to all amici curiae briefs is hereby extended to and including January 11, 2006.

S133439

BURNEY (SHAUN) ON H.C.

Extension of time granted

to January 30, 2006 to file the reply to the informal response to the petition for writ of habeas corpus. After that date, only 11 further extensions totaling about 350 additional days will be granted. Extension is granted based upon counsel Geraldine Russell's representation that she anticipates filing that document by December 22, 2006.

S133805

A104689 First Appellate District,
Division Two

TAUS v. LOFTUS

Extension of time granted

to January 18, 2006 for appellants to file the
reply brief on the merits.

S136327

JURADO (ROBERT J.) ON H.C.

Extension of time granted

to January 17, 2006 to file the informal response
to the petition for writ of habeas corpus. After
that date, only seven further extensions totaling
about 200 additional days will be granted.
Extension is granted based upon Deputy
Attorney General Marvin E. Mizell's
representation that he anticipates filing that
document by August 7, 2006.

S139017

LEWIS (JOHN) ON H.C.

Extension of time granted

to January 23, 2006 to file the informal response
to the petition for writ of habeas corpus. After
that date, only three further extensions totaling
about 75 additional days are contemplated.
Extension is granted based upon Deputy
Attorney General Deborah J. Chuang's
representation that she anticipates filing that
document by April 3, 2006.

C050185

Third Appellate District,

CALIFORNIA INSURANCE GUARANTEE

ASSOCIATION v. W.C.A.B.

Transferred to CA, Second Appellate District

S033975

PEOPLE v. COMBS (MICHAEL STEVEN)

Order filed

The order filed in the above case on
October 3, 2005, is amended to read as follows:
The order appointing Michael G. Millman, as
Executive Director of the California Appellate
Project, to serve as interim habeas
corpus/executive clemency counsel of record

for condemned prisoner Michael Steven Combs, filed March 16, 2005, is hereby vacated.

Michael R. Belter is hereby appointed as counsel of record for condemned prisoner Michael Steven Combs. Counsel is appointed for purposes of all postconviction proceedings in this court, and for subsequent proceedings, including the preparation and filing of a petition for clemency with the Governor of California, as appropriate.

Any "petition for writ of habeas corpus will be presumed to be filed without substantial delay if it is filed . . . within 24 months [now 36 months]" of this date (Supreme Ct. Policies Regarding Cases Arising From Judgments of Death, policy 3, timeliness std. 1-1.1), and it will be presumed that any successive petition filed within that period is justified or excused (see *In re Clark* (1993) 5 Cal.4th 750, 774-782), in light of prior habeas corpus/executive clemency counsel Richard C. Gilman's declaration, in support of his motion to withdraw, to the effect that he was unable to discharge his duty to investigate and, if appropriate, present a habeas corpus petition on behalf of condemned prisoner Michael Steven Combs.

S037195

PEOPLE v. KENNEDY (JERRY N.)
Order filed

The order filed in the above case on June 29, 2005, is amended to read as follows:

The order appointing Michael G. Millman, as Executive Director of the California Appellate Project, to serve as interim habeas corpus/executive clemency counsel of record for appellant Jerry Noble Kennedy, filed May 1, 2002, is hereby vacated.

Judd C. Iversen is hereby appointed to represent appellant Jerry Noble Kennedy for habeas corpus/executive clemency proceedings related to the above automatic appeal now pending in this court.

Any "petition for writ of habeas corpus will be presumed to be filed without substantial delay if it is filed . . . within 24 months [now 36

months]" of this date (Supreme Ct. Policies Regarding Cases Arising From Judgments of Death, policy 3, timeliness std. 1-1.1), and it will be presumed that any successive petition filed within that period is justified or excused (See *In re Clark* (1993) 5 Cal.4th 750, 774-782), in light of prior habeas corpus/executive clemency counsel Michael Ciralo's declaration, in support of his motion to withdraw, to the effect that he was unable to discharge his duty to investigate and, if appropriate, present a habeas corpus petition on behalf of appellant Jerry Noble Kennedy.

Brown, J., was absent and did not participate.

S044677

PEOPLE v. HORNING (DANNY RAY)

Order filed

The order filed in the above case on June 22, 2005, is amended to read as follows:

Upon request of condemned prisoner Danny Ray Horning for appointment of counsel, Barry M. Karl is hereby appointed to represent Danny Ray Horning for habeas corpus/executive clemency proceedings related to the above automatic appeal now final in this court.

Any "petition for writ of habeas corpus will be presumed to be filed without substantial delay if it is filed . . . within 24 months [now 36 months]" of this date (Supreme Ct. Policies Regarding Cases Arising From Judgments of Death, policy 3, timeliness std. 1-1.1), and it will be presumed that any successive petition filed within that period is justified or excused (See *In re Clark* (1993) 5 Cal.4th 750, 774-782), in light of this court's delay in appointing habeas corpus/executive clemency counsel on behalf of condemned prisoner Danny Ray Horning.

S126357RULE 962 SUSPENSION
Order filed

Having been provided proof of compliance pursuant to Family Code 17520, the suspension of **STEPHEN LUBEGA, #126849**, pursuant to our order filed on July 21, 2004, is hereby terminated.

The order is final forthwith.

S133343A105312 First Appellate District,
Division ThreeMICROSOFT CORPORATION v. FRANCHISE TAX
BOARD
Order filed

The application of respondent for permission to file reply brief on the merits containing 7,699 words, that exceeds the 4200 word limit prescribed by California Rules of Court rule 29.1(c)(1) by 3,499 words is hereby GRANTED.

S137828REED ON DISCIPLINE
Recommended discipline imposed

It is ordered that **SCOTT ALONSO REED, State Bar No. 185913**, be suspended from the practice of law for one year, that execution of the suspension be stayed, and that he be placed on probation for two years subject to the conditions of probation, including 90 days actual suspension, recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed on August 4, 2005, as modified by its order filed August 30, 2005. It is also ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) It is further ordered that he comply with rule 955 of the California Rules of Court, and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this

order.* Costs are awarded to the State Bar pursuant to Business & Professions Code § 6086.10 and payable in equal installments for membership years 2007 and 2008.

*(See Bus. and Prof. Code, § 6126, subd. (c).)

S137829

WATKINS ON DISCIPLINE

Recommended discipline imposed

It is ordered that **Margaret Emily Watkins, State Bar Number 175240**, be suspended from the practice of law in the State of California for one year, that execution of the one-year suspension be stayed, and that she be actually suspended from the practice of law in this state for thirty days and until (1) she makes restitution to Timothy McCulloch (or the Client Security Fund, if it has paid) in the amount of \$2,000 plus interest thereon at the rate of 10 percent simple interest per annum from September 8, 2003, until paid and furnishes proof satisfactory thereof to the State Bar's Office of Probation in Los Angeles; and (2) she files and the State Bar Court grants a motion, under rule 205 of the Rules of Procedure of the State Bar, to terminate her actual suspension all as recommended by the Hearing Department of the State Bar Court in its decision filed on August 17, 2005. If the period of Watkins's actual suspension extends for two or more years, she must remain on actual suspension until she shows proof satisfactory to the State Bar Court of her rehabilitation, present fitness to practice, and present learning and ability in the general law in accordance with standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct. Watkins is ordered to comply with any probation conditions imposed on her by the State Bar Court as a condition for terminating her actual suspension. Watkins is also ordered to take and pass the Multistate Professional Responsibility Examination within the longer of one year after the effective date of this order or the period of her actual suspension.

(See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Further, if the period of Watkins's actual suspension extends for ninety or more days, she is ordered to comply with California Rules of Court, rule 955 and to perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 days, respectively, after the effective date of this order.* Costs are awarded to the State Bar in accordance with Business and Professions Code § 6086.10 and payable in accordance with Business and Professions Code § 6140.7.

*(See Bus. & Prof. Code, § 6126, subd. (c).)

S137830

LEONARD ON DISCIPLINE

Recommended discipline imposed

It is ordered that **CATHY ELAINE LEONARD, State Bar No. 177791**, be suspended from the practice of law for one year and until he makes restitution to Dwight Ross (or the Client Security Fund, if appropriate) in the amount of \$3,032 plus 10% interest per annum from June 15, 2001, and furnishes satisfactory proof thereof to the State Bar Office of Probation, that execution of the suspension be stayed, and that he be placed on probation for two years subject to the conditions of probation recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed on July 27, 2005, as modified by its order filed August 17, 2005. It is further ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order.

(See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar pursuant to Business & Professions Code § 6086.10 and payable in equal installments for membership years 2007, 2008 and 2009.

S137831**O'KEEFE ON DISCIPLINE**

Recommended discipline imposed

It is ordered that **CHRISTOPHER J. O'KEEFE, State Bar No. 165197**, be suspended from the practice of law for two years, that execution of the suspension be stayed, and that he be actually suspended from the practice of law for six months and until he makes restitution to Linda Atcherley and Paul Vincent (or the Client Security Fund, if appropriate) in the amount of \$5000.00 plus 10% interest per annum from September 5, 2004, until paid, and furnishes satisfactory proof thereof to the Office of Probation of the State Bar, and until he accounts to Linda Atcherley and Paul Vincent for the fee of \$6,000.00 that they paid him in 2002, and makes restitution to Linda Atcherley and Paul Vincent (or the Client Security Fund, if appropriate) for the unearned portion of that \$6,000 fee plus 10% interest per annum from September 5, 2004, until paid, and furnishes satisfactory proof of that accounting and restitution to the Office of Probation of the State Bar, as recommended by the Hearing Department of the State Bar Court in its decision filed on August 8, 2005; and until the State Bar Court grants a motion to terminate his actual suspension pursuant to rule 205 of the Rules of Procedure of the State Bar of California. Respondent is also ordered to comply with the conditions of probation, if any, hereinafter imposed by the State Bar Court as a condition for terminating his actual suspension. If respondent is actually suspended for two years or more, he will remain actually suspended until he provides proof to the satisfaction of the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct. It is further ordered that respondent comply with rule 955 of the California Rules of Court, and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days,

respectively, after the effective date of this order.* Costs are awarded to the State Bar in accordance with Business and Professions Code § 6086.10, and payable in accordance with with Business and Professions Code § 6140.7.

*(See Bus. and Prof. Code, § 6126, subd. (c).)

S137836

EVANS ON DISCIPLINE

Recommended discipline imposed

It is ordered that **JOHN W. EVANS, State Bar No. 92161**, be suspended from the practice of law for one year, that execution of suspension be stayed, and that he be placed on probation for two years on condition that he be actually suspended for 30 days. John W. Evans is also ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed July 22, 2005, as modified by its order filed August 18, 2005. It is further ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar and one-half of said costs must be added to and become part of the membership fees for the years 2007 and 2008. (Bus. & Prof. Code § 6086.10.)

S137837

BAJGROWICZ ON DISCIPLINE

Recommended discipline imposed

It is ordered that **JAMES JOSEPH BAJGROWICZ, State Bar No. 49253**, be suspended from the practice of law for three years and until he provides proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and present learning and ability in the general law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct, that execution of the

suspension be stayed, and that he be placed on probation for four years subject to the conditions of probation, including six months actual suspension, recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed on July 20, 2005, as modified by its order filed on August 18, 2005. It is also ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) It is further ordered that he comply with rule 955 of the California Rules of Court, and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order.* Costs are awarded to the State Bar pursuant to Business & Professions Code § 6086.10 and payable in equal installments for membership years 2007 and 2008.

*(See Bus. and Prof. Code, § 6126, subd. (c).)

S137838

HOU ON DISCIPLINE

Recommended discipline imposed

It is ordered that **LILLIAN HOU, State Bar No. 156498**, be suspended from the practice of law for one year, that execution of the suspension be stayed, and that she be placed on probation for two years subject to the conditions of probation recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed on August 17, 2005. It is further ordered that she take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar in accordance with Business & Professions Code § 6086.10 and payable in accordance with Business & Professions Code § 6140.7.

S139638**LEBOWITZ ON RESIGNATION**

Resignation accepted with disciplinary proceeding pending

The voluntary resignation of **WALTER B. LEBOWITZ, State Bar No. 121789**, as a member of the State Bar of California is accepted without prejudice to further proceedings in any disciplinary proceeding pending against respondent should he hereafter seek reinstatement. It is ordered that he comply with rule 955 of the California Rules of Court and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is filed.* Costs are awarded to the State Bar.

* (See Bus. and Prof. Code, § 6126, subd. (c).)